

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

JERROD B HORTON,

Petitioner,

Case No. 20-cv-1658-bhl

v.

EARNELL R LUCAS,

Respondent.

SCREENING ORDER

Jared B. Horton filed his petition for writ of habeas corpus under 28 U.S.C. §2241 on November 2, 2020, alleging violations of his rights under the Sixth Amendment to a speedy trial. (ECF No. 1.) He also filed a motion for leave to proceed without prepayment of the filing fee on the same day. (ECF No. 2.) On November 18, 2020, Horton paid the \$5.00 filing fee in full, so the Court will deny his motion to proceed *in forma pauperis* as moot.

Rule 1(b) of the Rules Governing Section 2254 Cases in the United States District Court permits the Court to “apply any or all of these rules to a habeas corpus petition not covered by Rule 1(a).” The Court will do so here.

Rule 4 of the Rules Governing Section 2254 Cases requires the Court to “promptly examine” the petition—

If it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court, the judge must dismiss the petition and direct the clerk to notify the petitioner. If the petition is not dismissed, the judge must order the respondent to file an answer, motion, or other response within a fixed time, or to take other action the judge may order.

During its initial review of habeas petitions, the Court examines whether the petitioner has set forth cognizable constitutional or federal claims and has exhausted his available state remedies.

In his §2241 petition, Horton brings a claim of detainer/illegal pretrial detention. He alleges he is being held at Milwaukee County Jail in violation of his Sixth Amendment speedy trial right, and that he is suffering violations of his right to due process, his Fifth Amendment right to be free from self-incrimination, and his right to effective assistance of counsel. He also

claims that he is being prosecuted in bad faith, a violation of his rights under *Younger v. Harris*, 401 U.S. 37 (1971). Horton requests this Court to “put a stop to the Flagrant violation and abuse by the State Court Judicial process against its citizen [sic] which are cloaked with the presumption of innocene [sic]. And request that this Lawful Court of Record to see that justice is restored as well as my immediate release!”

The Court reviewed the public record of this case to aid its understanding of the facts.¹ The state’s prosecution of Horton began on July 12, 2019 and the case was set for trial initially in January 2020; the trial has been adjourned six times and is now scheduled to begin on February 18, 2021. Horton has asserted his right to a speedy trial in state court on at least one occasion, but the record is unclear as to how or whether the state responded. Given the ambiguity of the petition and the state court record, the Court cannot conclude that Horton is plainly not entitled to relief, so the petition will not be dismissed under Rule 4 and the respondent must respond. Accordingly,

IT IS HEREBY ORDERED:

1. Horton’s motion for leave to proceed without prepayment of the filing fee, ECF No. 2, is DENIED as moot.
2. Horton may proceed on the claims in his *habeas* petition. Petitioner is advised that he must send copies of all future filings with the Court to counsel for respondent, no matter whether in letter, brief, memorandum, or other form.
3. Within **fourteen (14) days** of the date of this Order, the respondent shall answer or otherwise respond to the petition, complying with Rule 5 of the Rules Governing §2254 Cases and Civil L. R. 7(f), and showing cause, if any, why the writ should not issue.

Dated at Milwaukee, Wisconsin on December 8, 2020.

s/ Brett H. Ludwig
BRETT H. LUDWIG
United States District Judge

¹ Milwaukee County Case Number 2019CF003037 State of Wisconsin vs. Jerrod B Horton, Wisconsin Circuit Court Access (Dec. 8, 2020, 12:42 PM), <https://wcca.wicourts.gov/caseDetail.html?caseNo=2019CF003037&countyNo=40&index=0&mode=details>.